

FORUM

Not much to celebrate about the legislative session's final days



Chris Fitzsimon

Guest Columnist

The 2015 session of the General Assembly adjourned just after 4:00 Wednesday morning, ending several days of frenzied activity that left many observers scrambling to figure out exactly what happened, much like surveying the damage in a neighborhood the morning after a ferocious overnight storm. And it may take a while.

Many of the news accounts of the session's tumultuous last days left many progressive advocates breathing a sigh of relief that several especially regressive proposals ultimately failed, abandoned because lawmakers ran out of time or simply couldn't muster enough support.

The Senate passed legislation Monday night that would divert more funding from traditional public schools to charters—even federal money that pays for school lunches that charters are not required to provide—but the proposal stalled in the House.

A push by Rep. Paul Stam to increase funding for the unaccountable private school voucher scheme failed, though it's worth remembering that the final budget had already included an increase in funding for the program.



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And maybe most importantly, a last minute push by Stam and others to strip local governments of the authority to ban discrimination in housing and employment and raise the local minimum wage failed too in a surprising vote in the House Rules Committee.

The fact that those efforts all failed—at least for now—is good news, but shouldn't obscure the damage that was done by legislation that did pass in the final flurry before

adjournment.

Three pieces of legislation especially stand out. The so-called "regulatory reform" bill will remove vital protections for our water, air, and land, and allow polluters to escape responsibility for cleaning up the damage they cause.

There are a lot of ways to describe what amounts to a polluters protection act. Reform is not one of them.

Another bill that passed in the middle of the night

will make work and daily life harder for undocumented immigrants in the state and their families by invalidating many of their ID's and making it easier for employers to exploit them.

The same bill will kick roughly 100,000 low-income adults of the federal food stamp program next year by forbidding the state to continue to apply for federal waivers so people out of work in counties with high unemployment can afford to feed their

families. And

lawmakers also expanded legislation passed recently that would create political slush funds for legislative leaders by creating a similar fund for candidates for the Council of State, which includes the governor. The committees will allow, among other things, politicians to skirt contribution limits, ushering in a new phase of pay to play politics.

There's plenty more that passed in the last 48

hours, including a thinly-veiled attack on Planned Parenthood and an expansion of deer farms. Important legislation to protect workers misclassified as independent contractors was not approved.

Overall, the last few days of the General Assembly and the reaction to them are a microcosm of the nine month session itself, with lawmakers earning praise for not doing more bad things, not cutting more teacher assistants or slashing the university budget less than they slashed it last year.

Sorry, that's no reason for celebration. And neither is failing to divert more money from traditional public schools or allowing local governments to keep their authority to respond to their own constituents and protect people from discrimination.

Moving the state backwards less than expected is still moving the state backwards. And move it backwards they did, for the last nine months and for the last 48 hours.

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Making 'Sunshine Week' every week



Kevin M. Goldberg

Guest Columnist

government was created by the American Society of News Editors with a grant from the John L. and James S. Knight Foundation.

Now co-sponsored by ASNE and the Reporters Committee for Freedom of the Press, Sunshine Week is intended to highlight the importance of open government around the country.

All indications pointed to the fact that this year's Sunshine Week was one of the best yet. In Washington, D.C. and throughout the country, people found new and innovative ways to make people think about transparency (my personal favorite was the brewing of "Sunshine Wheat" beer—the first beer of Sunshine Week).

Even government agencies embraced the spirit of open government for those seven days. One could take a field trip every day to an agency event touting their success with regard to transparency and disclosure of government records and information.

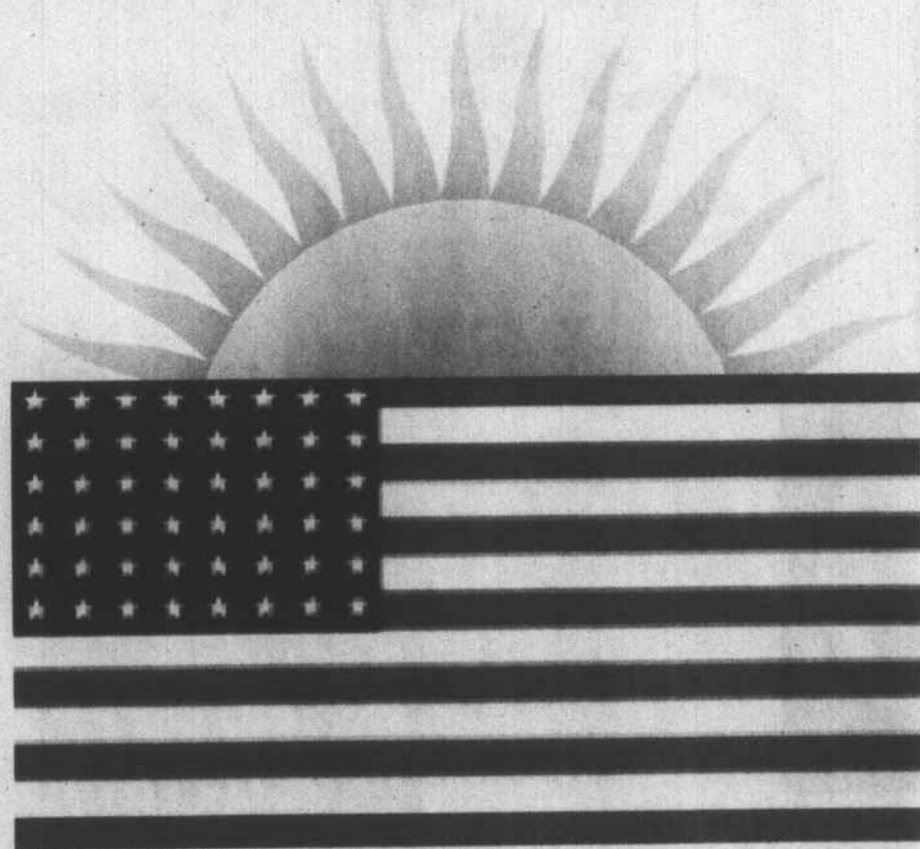
Media outlets also were doing great things. Highlights included op-eds on the importance of open government by Associated Press President and CEO Gary Pruitt and by Eric Newton, Senior Advisor to the President of the John L. and James S. Knight Foundation.

There were also print and online stories on the barriers to access, editorial cartoons and a video segment highlighting some of the most egregious FOIA delays in existence.

Fantastic. But now six months down the line, what has been the net effect?

Sunshine Week was created because of a perception that people don't truly appreciate the importance of open government, in part because there was little to no discussion of the issue itself. Sunshine Week was intended to make people stop taking transparency for granted, but not just for a week. We don't stop being American when the clock strikes midnight on July 5. So why does it feel like government, media and citizens don't commit to trans-

The Tenth "Sunshine Week" ended about six months ago, on March 21. This annual celebration of open gov-



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parency for the 51 weeks until the next Sunshine Week (which, for those looking ahead, will be held from March 13 to 19, 2016)?

In some ways, Sunshine Week undercuts its own success. The congressional committees with jurisdiction over the federal Freedom of Information Act—the House Committee on Oversight and Government Reform and Senate Judiciary Committee—have largely fallen into a pattern of holding one and only one hearing relating to the federal FOIA every year:

during Sunshine Week. And that's if we're lucky.

As processing delays and unnecessary invocation of FOIA exemptions diminish the law's true utility for those who need meaningful information from government agencies in a timely fashion, Congress should be asking more questions of agencies on a regular basis.

Congress, the media and the public need to take note as executive branch agencies increasingly try to "control the message" by limiting unfettered access to

staff or by only allowing staff to speak "off the record" or "on background."

Not pushing back against these abuses allows the government to, in effect, manipulate Sunshine Week for its own gain. In fact, many agencies have their playbook down pat. Show up when asked to testify by a congressional committee and endure the hot seat for a couple hours and/or hold a public event during Sunshine Week, making sure to say all the right things about transparency and throwing out a few numbers to "prove" that your FOIA backlogs have decreased. Release a few "high value" data sets (which aren't really all that high in value at all) to show you are being "proactive." Make it through the week and then most everyone is off your back until the next Sunshine Week.

Quite often it works. Don't believe me? Look at what the White House did this year. On March 13, 2015, two days before Sunshine Week started, it announced that the White House Office of Administration would no longer be subject to FOIA. Granted, this was not a violation of law, as a federal court had ruled six years before that this office is not subject to FOIA. But the simple fact is that both the timing and the action itself smacked of contempt for open government and should serve as a reminder that no government will ever authentically embrace truly open government, except perhaps within the confines of the one week in which they know all eyes are on this issue.

Government agencies tend to act like a boxer "stealing a round" when it comes to transparency. There's a grand flourish when they know it will score big points. But we need to refrain from giving them the champion's belt for such tactics; at best, they deserve a participant's medal. Yes, government agencies need to do a better job of committing to transparency 365 days a year, but so do those pushing them to do better. It's time to really take what we've learned during Sunshine Week and use it the rest of the year. We still have time to accomplish that before next March.

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